

SUPREME COURT OF ARKANSAS

No.

IN RE: The Arkansas Judges and Lawyers
Assistance Program

Opinion Delivered 2-28-08

PER CURIAM

On January 10, 2008, we issued a per curiam order setting out proposed revisions to the policies and procedures followed by the Arkansas Lawyers Assistance Program. We sought comment from the bench and the bar. No comments have been received by the Clerk of the Court.

We find the proposed changes in the policies and procedures to be appropriate. These new policies and procedures will more correctly reflect the day-to-day activities, responsibilities, and other procedures attendant to the effective operation of the program.

We adopt the attached document titled "Arkansas Judges and Lawyers Assistance Program - Procedure Manual." As noted in the forward to that manual, the program shall henceforth be designated as the Arkansas Judges and Lawyers Assistance Program, or JLAP.

Arkansas Judges and Lawyers Assistance Program

Procedure Manual

FORWARD

The Arkansas Supreme Court established the Arkansas Lawyers Assistance Program (ALAP) as a program which assists and supports judges and lawyers in overcoming physical or mental disabilities that result from disease, substance abuse, disorder, trauma, or age that impair their ability to practice or serve (impairments). The Arkansas Lawyers Assistance Program Committee (Committee) was appointed by the Arkansas Supreme Court to fulfill the purposes of the program, which are:

- to protect the interests of clients, litigants, and the general public from the harm caused by impaired judges and lawyers;

- to assist impaired members of the legal profession to begin and continue to recover; and,

- to educate the bench and bar to the causes of and remedies for impairment affecting members of the legal profession.

The Committee shall develop the necessary documents to administer the program. This Procedure Manual will replace the previous manual adopted by per curiam order of this Court on December 31, 2001. To more properly reflect the population served by the program, throughout the new manual the program is designated Arkansas Judges and Lawyers Assistance Program (JLAP).

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1. BACKGROUND

The Arkansas Judges and Lawyers Assistance Program (JLAP) was established by the Arkansas Supreme Court to be effective January 1, 2001. The Court appointed nine (9) committee members, including three (3) citizens who are not members of the legal profession. The members have diverse experience, knowledge and a demonstrated competence in the physical and mental health conditions that negatively affect a lawyer or judge in the practice of their profession and quality of life.

The Court appoints the Chair of the Committee. The powers and duties of the Committee are:

- to establish Arkansas JLAP policies and procedures consistent with the purposes of the program;
- to oversee the management of the program to achieve the stated purposes; and,
- to assure the implementation of the Arkansas JLAP program in compliance with the Arkansas Supreme Court per curiam Order of December, 7, 2000.

The procedures and policies set forth in this manual are cumulative to and explanatory of the per curiam order of December 7, 2000. In the event of conflict between these procedures and the per curiam order, the provisions of the per curiam order shall prevail.

2. PROGRAM GOALS AND GUIDING PRINCIPLES

Arkansas JLAP's program goals are:

2. To identify the impaired lawyer or judge who is practicing in the state of Arkansas;
3. To assist judges and lawyers in their personal recovery from physical or mental health conditions that affect competent practice of their profession and their quality of life;
4. To assist the families of judges and lawyers during their personal recovery from identified physical or mental health conditions;
5. To educate the legal community on identification, assessment, referral, treatment, and community based resources available to meet the needs of affected judges and lawyers;
6. To monitor and assist judges and lawyers while they return to the practice of law or to the bench; and,
7. To establish and maintain a cooperative relationship with the legal community.

Arkansas JLAP's guiding principles are:

1. The program is motivated by humanitarian concern for the public and legal community;
2. Addiction, mental health concerns, physical disabilities and aging are treatable conditions;
3. Addiction, mental health concerns, physical disabilities and aging should not be ignored or left untreated;
4. Impaired judges and lawyers are obligated to seek assistance and to participate in services necessary to renew their full effectiveness as a lawyer, judge and family member; and,
5. Every licensed lawyer and judge has the ethical responsibility to recognize the signs and symptoms of a colleague who might be impaired and to assist the colleague in accessing appropriate services.

3. CLINICAL DEFINITIONS

The following definitions are used by the Arkansas JLAP Committee and Staff for clarity and consistency:

Active Participant -	A person who continues to make contact and cooperate with Arkansas JLAP staff;
Inactive Participant -	A person who has made contact (self-referral or referred by another party), but has ceased to make further contact over a 12 month period of time;
Non-Participant -	A referral has been received from another party, but after investigation the referred person is deemed not appropriate for Arkansas JLAP engagement or contact had been made and the referral had not cooperated;
Pending -	A referral for a person has been received, information is being gathered, no direct contact with potential participant has occurred;
Compliant -	The participant is following the recommendations of the Arkansas JLAP staff and Arkansas JLAP contract;
Noncompliant -	The participant has failed to follow the recommendations of the Arkansas JLAP staff or has chose to no longer access services of Arkansas JLAP;
Transitional -	The participant is transitioning out of Arkansas JLAP as the result of loss of licensure; and,
Trauma -	Negative stresses not specifically identified in the per curiam as alcohol, drug abuse, mental health, physical disability or aging (i.e., stress, time management, financial issues, codependency).

4. COMMITTEE GUIDELINES

The following are guidelines used by the Arkansas JLAP Committee and staff when contact is initiated:

A. SELF-REFERRALS

1. Any licensed lawyer or judge may voluntarily self-refer;
2. Basic information will be taken by telephone or in person to establish appropriateness for services;
3. Arkansas JLAP staff meets with the lawyer or judge as soon as possible. The lawyer is encouraged to accept personal responsibility for his or her treatment process and recovery;
4. A clinical assessment is conducted by a licensed professional;
5. Treatment options are discussed and referrals made as appropriate; and,

6. The participant is offered the opportunity to participate in a health monitoring program to assure compliance with treatment goals.

B. REFERRALS OF SUSPECTED IMPAIRMENT

1. No anonymous referrals are accepted by the Arkansas JLAP Committee or staff;
2. Referrals are accepted when the ability of a lawyer or judge to practice and serve are challenged and are expressed by a concerned party;
3. Referrals are accepted from any individual who has observed behaviors indicating impairment or have information that may place public health, welfare, or safety at risk;
4. Basic information will be taken by telephone or in person from the referral source to establish "pending status";
5. Arkansas JLAP staff meets with the lawyer or judge as soon as possible. The lawyer is encouraged to accept personal responsibility for his or her treatment process and recovery;
6. A clinical assessment is conducted by a licensed professional;
7. Treatment options are discussed and referrals made as appropriate; and,
8. The participant is offered the opportunity to participate in a health monitoring program to assure compliance with treatment goals.

C. REFERRALS FROM DISCIPLINARY AUTHORITIES

Referrals are accepted for judges and lawyers under investigative, provisional, or probationary status with the Arkansas Professional Conduct Committee, the Arkansas Judicial Discipline and Disability Commission or any disciplinary agency with disciplinary authority.

D. INVESTIGATION OF SUSPECTED IMPAIRMENT

1. The objective of investigating suspected impairment of a lawyer or judge is to gather accurate information from individuals who have concern for the health of the lawyer or judge. All efforts to gather information are discrete and confidential;
2. When an investigation produces insufficient indication of impairment, the lawyer or judge is classified as "non-participant status" but the file is maintained indefinitely should new information be obtained;
3. When impairment is confirmed, an intervention is planned and conducted with Arkansas JLAP staff. Intervention planning and implementation use techniques designed to assist the lawyer or judge to acknowledge personal responsibility for initiating treatment and becoming responsible for their recovery and other necessary behavioral changes;
4. Treatment options are discussed and referrals made as appropriate; and,
5. The participant is offered the opportunity to participate in a health monitoring program to assure compliance with treatment goals.

E. HEALTH MONITORING CONTRACTS

A Health Monitoring Contract is a tool for maintaining treatment goals. Both addiction and mental health contracts monitor the participant's personal responsibility for achieving the desired goals and provide documentation of the accomplishments. Health Monitoring Contracts are individualized for each participant and are maintained for a minimum of three (3) years. Quarterly meetings with Arkansas JLAP staff verify compliance and serve as an ongoing supportive tool for the participating lawyer or judge.

6. ADDITIONAL SERVICES

Arkansas JLAP provides support services for family members, friends, colleagues or others who are potential participants in an intervention. These services may include motivational services to learn techniques and self-care during the recovery process of the participant.

7. REPORTING OF STATISTICAL INFORMATION

Statistical information consisting of status; compliance; referral source; nature of impairment; gender; and geographic location are compiled by Arkansas JLAP staff. No individually identifying information is included in the statistical information. Statistical information is provided to the Arkansas Supreme Court annually. Statistical information is maintained indefinitely.

8. CONFIDENTIALITY

Information and actions taken by Arkansas JLAP are held in the strictest confidence and shall not be disclosed or required to be disclosed to any person or entity outside of Arkansas JLAP, unless such disclosure is authorized by the participant. Exceptions include any Arkansas JLAP staff who is a licensed health care professionals thus a mandated reporter as outlined by Arkansas statutes.

9. TRANSITIONAL SERVICES

To provide competent clinical care to Arkansas JLAP participants two issues regarding transitional services are provided:

Abandonment Prohibited:

Licensed health care professionals do not abandon or neglect clients in counseling. Counselors assist in making appropriate referral arrangements for the continuation of treatment, when necessary, during interruptions such as vacations and following termination of services; and,

Disbarment:

Should an Arkansas JLAP participant be disbarred during the course of treatment, the Arkansas JLAP staff will continue to provide transitional services consistent with the requirements of their professional licensing board with regards to proper termination of services. No lawyer or judge shall be refused services during disbarment proceedings or until transitional services have been accomplished.

9. FILE RETENTION

To be compliant with standards for licensed mental health professionals in the State of Arkansas paper files for all participants will be maintained for seven (7) years from the date services were terminated. The minimum data required by licensed mental health professionals in the state of Arkansas will be retained. All unnecessary information to meet retention requirements will be shredded.